

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AKESODE ADEMOLA FAROUK,

Plaintiff,

-against-

NY DOE THE DEPARTMENT OF
EDUCATION; DR. DYON ROZIER; ERIKA
TOBIA, SUPERINTENDENT OF DISTRICT
08; MS. PAULETTE CHRISTIE,

Defendants.

ORDER

20 Civ. 418 (PGG) (SN)

PAUL G. GARDEPHE, U.S.D.J.:

Pro se Plaintiff Akesode Ademola Farouk filed this action on January 15, 2020, alleging, inter alia, that by terminating his employment, Defendants engaged in discrimination and retaliation on the basis of his race, national origin, and disability. (Dkt. No. 2)

On January 17, 2020, this Court referred this action to Magistrate Judge Sarah Netburn for general pretrial supervision. (Dkt. No. 5)

On May 18, 2020, Defendants filed a suggestion of death upon the record pursuant to Fed. R. Civ. P. 25(a)(1), noting that Plaintiff had died on May 11, 2020, and that Defendants had confirmed Plaintiff's death through a telephone conversation with his former school principal Dr. Dyon Rozier, as well as through a memorial service notice. (Dkt. No. 17 & Ex. A)

On June 11, 2020, Judge Netburn issued an order stating that, "[p]ursuant to [Rule 25(a)], the decedent's successor or representative must move to substitute the proper [party] within 90 days after service of the Notice." (June 11, 2020 Order (Dkt. No. 18) The Order further noted that "[i]f such motion is not made within 90 days, or by

August 16, 2020, the action by the decedent ‘must be dismissed.’ Fed. R. Civ. P. 25(a).”

(Id.) The Order was mailed to Plaintiff’s home address to the attention of his estate. (Id.)

Rule 25(a) provides that

[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a). Given that Defendants served their suggestion of death on May 18, 2020, the 90 day period expired on August 16, 2020. As of today, no motion to substitute has been filed, nor has Plaintiff’s estate communicated with this Court in any manner.

Accordingly, this action will be dismissed pursuant to Rule 25(a).

CONCLUSION

For the reasons stated above, Plaintiff’s claims against Defendants are dismissed. The Clerk of the Court is directed to close this case.

Copies mailed by Chambers.

Dated: New York, New York
September 8, 2020

SO ORDERED.



Paul G. Gardephe
United States District Judge